

REMARKS

In accordance with the foregoing, claims 1 and 11 are amended. Claim 17 is added. No new matter is added. Claims 1-17 are pending and under consideration.

ALLOWABLE CLAIMS

Applicant acknowledges with appreciation the indication that claims 5-10 and 12-16 recite allowable subject matter. However since Applicant believes that claims 1 and 11 from which the claims indicated as allowable depend are also patentable, the claims 5-10 and 12-16 are maintained for now in dependent form.

TITLE

The title that is objected to on page 2 of the Office Action is amended herewith to be more descriptive.

CLAIM REJECTIONS UNDER 35 USC 102

Claims 1-4 and 11 are rejected under 35 USC 102(b) as being anticipated by U.S. Patent No. 5,193,629 to Lare ("Lare").

Lare discloses a weighing apparatus for weighing currency notes or coins having a weighing platform coupled to a load cell for generating a weight signal dependent upon the weight of items on the platform. The weighing machine determines the number and/or value of the weighed items by dividing the weight signal by an appropriate weight factor. Where the quotient obtained is not an exact integer it is rounded. The quotient is compared with tolerance limits and a warning is given if the quotient falls outside these limits. To increase the accuracy of the machine while maintaining or reducing the number of warnings, means are provided to vary said tolerance limits in accordance with said weight signal or with said quotient. (See Lare's Abstract.)

Claim 1 is directed to a method for determining the quantity of items in a container. Each item has a same nominal weight between an upper weight limit and a lower weight limit. Claim 1 is amended herewith to enhance clarity of the claimed subject matter. No new matter is added and the following arguments for patentability do not rely on the amendments of the claim language.

Lare fails to anticipate "defining a predetermined quantity, n, of items to be transferred in a single transfer cycle into a container, n being selected such that a product of (n+l) and the lower weight limit exceeds a product of n and the upper weight limit and such that a product of n

and the lower weight limit exceeds a product of (n-1) and the upper weight limit, and attempting to transfer n items into the container" as recited in step a of claim 1. In Lare, tolerance limits are set as to whether to issue a warning signal that the number of counted items is indefinite. However, if the weighted quantity indicates a number outside the set tolerance limits, no warning is issued although the number may be wrong. The number in Lare is not at or around a target value (i.e. the predetermined quantity, n) and thus, depending on the set tolerance limits accuracy becomes doubtful when the number is relatively large. (See col. 10 line 19 to col. 11 line 40 of Lare.)

In contrast, according to claim 1 (and claim 11), the predetermined quantity of items n is selected "such that a product of (n+1) and the lower weight limit exceeds a product of n and the upper weight limit and such that a product of n and the lower weight limit exceeds a product of (n-1) and the upper weight limit." That is, the actual quantity (which is likely around n) cannot be wrong because of the way the system is setup to function. The approach put forth in independent claim 1 (and 11) is far more useful and accurate for maintaining a fast throughput of items for packaging as would be required on a high speed production line.

Therefore, Lare fails to teach or suggest every feature recited in independent claim 1, so that claim 1 and claims 2-10 depending directly or indirectly from claim patentably distinguish over the prior art. Accordingly, Applicant respectfully traverses, and requests reconsideration of, the rejection based on Lare.¹

Independent claim 11 and claims 12-16 depending from claim 11 are patentable at least because the cited prior art reference, Lare, fails to anticipate "a transfer system adapted to attempt to transfer a predetermined quantity, n, of items to a container [...] wherein the predetermined quantity, n, is defined such that a product on n+1 and the lower weight limit exceeds a product of n and the upper weight limit, and a product of n and the lower weight limit exceeds a product of n-1 and the upper weight limit."

NEW CLAIM 17

New claim 17 is an alternative recitation of the method disclosed in the current application and patentably distinguishes over the cited prior art.

CONCLUSION

¹ See MPEP 2131: "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference," (Citations omitted) (emphasis added). See also MPEP 2143.03: "All words in a claim must be considered in judging the patentability of that claim against the prior art."

There being no further outstanding objections or rejections, it is submitted that the application is in condition for allowance. An early action to that effect is courteously solicited.

Finally, if there are any formal matters remaining after this response, the Examiner is requested to telephone the undersigned to attend to these matters.

If there are any additional fees associated with filing of this Amendment, please charge the same to our Deposit Account No. 19-3935.

Respectfully submitted,

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Date: Aug 30, 2007

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